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Verification in all its aspects, including the role of the United Nations in the field of verification

Note by the Secretary-General*

The Secretary-General has the honour to submit herewith the report of the Panel of Government Experts on verification in all its aspects, including the role of the United Nations in the field of verification. The Panel was appointed in pursuance of paragraph 3 of General Assembly resolution 59/60 of 3 December 2004.

* The document was submitted late to conference services without the explanation required under paragraph 8 of General Assembly resolution 53/208 B, by which the Assembly decided that, if a document is submitted late, the reason should be included in a footnote to the document.



Report of the Panel of Government Experts on verification in all its aspects, including the role of the United Nations in the field of verification

Summary

The international security environment has changed considerably over the past decade, with corresponding implications for non-proliferation, arms control, disarmament and confidence-building measures. These changes have also had implications for verification in general and led to a greater emphasis on compliance with obligations under existing treaties, agreements and commitments. They have also fostered a greater realization of the need to respond to non-compliance with arrangements in force and to build national capacities to implement them more fully and effectively.

Pursuant to the request made by the General Assembly in its resolution 59/60, the Secretary-General established a panel of government experts to prepare a study on verification in all its aspects, including the role of the United Nations in the field of verification. Two previous United Nations expert reports on the subject, in 1990 and 1995, dealt comprehensively with the issue. Building on those reports, the current Panel approaches the issue selectively, looking at what has changed in 10 years and discerning new trends and developments.

The experts examine the purpose of verification; its conceptual evolution; developing methods, procedures and technologies; and verification and compliance mechanisms. The Panel offers 21 generic recommendations for active consideration by Member States, treaty bodies or the United Nations.

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Foreword by the Secretary-General

Verification of compliance went hand in glove during the 1990s, with the remarkable gains made in multilateral disarmament and arms control. A new era of global cooperation in ensuring the effective implementation of treaties seemed to be dawning — the Chemical Weapons Convention set out the most far-reaching verification arrangements ever made with regard to a disarmament agreement, and the establishment of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty initiated the development of a worldwide network of monitoring stations and a global communications system that was unprecedented in scope. Two comprehensive United Nations government expert reports on verification in 1990 and 1995 underscored this trend. Verification was accepted as a tool to reinforce disarmament agreements, thus enhancing national and international peace and security.

However, the tide turned in the first years of this century, and the famous catch-phrase of the cold war, “trust and verify”, became tarnished. It is thus encouraging to see that the present report, the third in the series, acknowledges a shift away from that perception. The report upholds the need for verification of arms agreements, treaties and other commitments and highlights the responsibility of States to comply with those commitments. It also recognizes how rapidly technical advances are being applied to verification and compliance commitments. It stresses that new areas of international cooperation, such as controls on the illicit trade in small arms and light weapons, call for fresh thinking about monitoring of compliance at the regional and subregional levels.

The experts do not propose specific solutions for the verification of international arms norms, but they do suggest that solutions can be found. Those solutions could generate greater levels of confidence among States. I share the hope expressed in the final recommendation made by the Panel that Member States will consider actively how to further develop the 21 recommendations made by the Panel. The focus of the purpose remains *trust* among States. That trust can be built and strengthened through effective verification, compliance and monitoring.

Letter of transmittal

[30 July 2007]

I have the honour to submit herewith the report of the Panel of Government Experts on verification in all its aspects, including the role of the United Nations in the field of verification. The Panel was appointed in pursuance of paragraph 3 of General Assembly resolution 59/60 of 3 December 2004. The experts appointed to the Panel are listed at the end of the present letter.

As Chairman of the Panel, I am pleased to inform you that consensus was reached on the report. Arriving at consensus was achieved through a combination of face-to-face meetings, electronic communications and telephonic exchanges — an approach that afforded additional time and opportunity to pursue consultations and discussions. These latter permitted the Panel to iron out last divergences on the text.

The Panel's work

The Panel held three sessions last year: 30 January-3 February 2006 in New York; 8-12 May 2006 in Geneva; and 7-11 August 2006 in New York.

The Panel's deliberations were enriched by presentations made by several of its members in their respective areas of verification and compliance expertise. Throughout the sessions, the Panel also heard presentations by verification analysts and practitioners from within the United Nations, its Member States and its family of organizations, as well as from non-governmental research institutes and associations. The Panel wishes to express its gratitude to these experts for their contributions. A list of the presentations is annexed to the present letter.

On the last day of its third session, the Panel found that more time was needed to continue work on the draft text. Much solid work had been achieved and it was agreed that the end of the formal face-to-face meetings should not spell the conclusion of all efforts to reach a consensus text. Consequently, the Panel entrusted the Chairman with the task of continuing consultations through electronic means to resolve the outstanding differences on the text during the time before a report would formally have to be submitted.

On 16 October 2006, upon the request of the Chairperson of the First Committee of the General Assembly, I gave an interim report on the work of the Panel to the Committee. In it, I explained to members of the First Committee that, though the time allotted for formal sessions had expired, the Panel was still resolved to continue working towards a consensus report, particularly given the important contribution such a consensus could make to establishing a common view on the role of verification with respect to disarmament and arms control agreements.

On 6 December 2006, the General Assembly, by decision 61/514, encouraged the Panel to bring its work to an agreed conclusion as soon as possible, and decided to include the item on the agenda of the next session of the Assembly. On 27 June 2007, the Panel reached agreement on the text which is attached to this letter of transmittal. I would point out that the substantive work of the Panel was conducted during 2006. The content of the report therefore reflects issues relating to verification as of August 2006.

Throughout the Panel's deliberations in 2006 — during the formal meetings as well as the subsequent procedure of electronic consultations — the members of the Panel were strongly supported by the Under-Secretary-General for Disarmament Affairs. The Panel members are grateful for his repeated reminders to the Panel of the timeliness of its work and his continuing encouragement to reach an agreed conclusion.

The Panel wishes also to express appreciation for the invaluable contribution of three verification experts, from both within and outside the United Nations system, who served as consultants to the Panel: the Director of the United Nations Institute for Disarmament Research; the Deputy Director of the Verification Research, Training and Information Centre; and the Director of the Canadian Centre for Treaty Compliance at Carleton University in Ottawa. The Panel also wishes to express appreciation to the Chief of the Monitoring, Database and Information Branch of the Office for Disarmament Affairs, who served as Secretary of the Group, and to other Secretariat officials who assisted the Panel with their expertise.

(Signed) John Barrett
Chairman of the Panel

The government experts appointed to the Panel were the following:

Masahiko Asada
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Ministry of Foreign Affairs of Germany
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Philippe Errera
Deputy Director, Centre for Analysis and Policy Planning
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Ministry of Foreign Affairs of China
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List of presentations made by verification analysts and practitioners from the United Nations, its Member States and its family of organizations, from non-governmental research institutions and associations

Beck, Volker. Coordinator of the 1540 (2004) experts. *Security Council resolution 1540 (2004)*.

Bosch, Olivia. Senior Research Fellow, International Security Programme at Chatham House (Royal Institute of International Affairs), London. *Issues of non-proliferation of weapons of mass destruction, in particular on Security Council resolution 1540 (2004)*.

Buchanan, Ewen. Public Information Officer, United Nations Monitoring, Verification and Inspection Commission. *United Nations verification: Iraq weapons of mass destruction*.

Buisson, Mike. Member of the Group of Experts monitoring the implementation of Security Council resolution 1654 (2006). *Sanctions and arms embargo*.

Carle, Christophe. Deputy Director, United Nations Institute for Disarmament Research, United Nations Office at Geneva. *Missiles*.

Cassandra, Michael. Chief, Monitoring, Database and Information Branch, Department for Disarmament Affairs. *The work of the Department for Disarmament Affairs in the area of verification*.

DeSutter, Paula A. United States Assistant Secretary of State for Verification, Compliance and Implementation. *The Libya model: strategic commitment and verification*.

Ghita-Duminica, Adrian. Senior Adviser, Industry, Canadian National Authority. *Verification through routine on-site inspections at industrial facilities under the Chemical Weapons Convention: views of a former inspector*.

Gizowski, Sylwin. Strategic Coordination and Planning Officer, Office of the Executive Secretary, Preparatory Commission of the Comprehensive Nuclear-Test-Ban Treaty Organization. *International monitoring system*.

Goldschmidt, Pierre. Member of the Board of Directors and of the Executive Committee of the Association Vinçotte Nucléaire, Visiting Scholar with Carnegie Endowment for International Peace and former Deputy Director General, Head of the Department of Safeguards, International Atomic Energy Agency. *Nuclear issues*.

Krepon, Michael. Co-founder of the Henry L. Stimson Center, Washington, D.C. *Cooperative threat reduction*.

McDonald, Glenn. Yearbook Coordinator, Senior Researcher, Small Arms Survey. *Verification, including monitoring, reporting, inspection and confidence-building aspects which apply to small arms agreements*.

Reeps, Horst. Director of Verification, Organization for the Prohibition of Chemical Weapons. *The verification process*.

Smithson, Amy. Senior Fellow at Centre for Strategic and International Studies, Washington, D.C. *Issues related to chemical and biological weapons proliferation*.

Stoffer, Howard. Head of Administration and Information, Counter-Terrorism Committee Executive Directorate. *Developments in methods, procedures and technologies for verification of compliance in the light of international experiences.*

Wareham, Mary. International Committee to Ban Landmines, former Coordinator of Landmine Monitor. *Development of verification and compliance with the Mine Ban Convention.*

Yehl, Tom. Director of Technology and Assessment, Bureau of Verification, Compliance and Implementation, United States Department of State. *Cooperative methodologies and technologies for verification and compliance assessment.*

Zanders, Jean Pascal. Bio Weapons Prevention Project. *Verification in support of the prevention of the weaponization of disease: challenges and options.*

Zlauvinen, Gustavo. Representative of the Director General of the International Atomic Energy Agency to the United Nations and Director of the New York Office. *Developments at the International Atomic Energy Agency with respect to verification.*

I. Introduction

1. In the 11 years since the last United Nations expert group report on verification (A/50/377), the international security environment has changed considerably, with corresponding implications for non-proliferation, arms control, disarmament and confidence-building measures. Global terrorism has made its baneful impact felt in many States, reinforcing concern about the potential for terrorists to obtain and use chemical, biological, radiological or nuclear weapons. An international clandestine network for the procurement of designs, materials and technologies for nuclear weapons has been discovered. Non-compliance with obligations arising from the Treaty on the Non-Proliferation of Nuclear Weapons and nuclear safeguards agreements has occurred, with one State announcing its withdrawal from the Treaty. Advances in biotechnology and genetics have emerged that have profound implications for the control of biological and toxin weapons. Missile proliferation is also of concern in this context as more States have acquired knowledge and capacity to develop, produce and deploy means of delivery, including missiles, and other unmanned systems that can be used in a destabilizing manner. There is also a growing risk of misuse of dual-use technologies and items.

2. In the area of conventional arms, armed conflicts in various regions have been exacerbated by the illicit transfer from outside sources of certain types of weapons, particularly small arms and light weapons, including weapons of increasing sophistication and destructiveness.

3. Such changes in the international security environment have implications for non-proliferation, arms control and disarmament as well as for confidence-building and verification. In addition, there is growing emphasis on full compliance by all States with their obligations under existing treaties, agreements and commitments, as well as growing realization of the importance of responding to non-compliance¹ and building national capacities to implement those treaties, agreements and commitments more fully and effectively. This has stimulated renewed discussion on the purpose, effectiveness and relevance of verification in its capacity to promote compliance and to deter, detect and help to address non-compliance.

4. Over the past decade, the technical means of verification have continued to evolve, providing a greater range of tools that can be used, including those within the grasp of a wider number of States and organizations. The rapid advancement of information and communications technology, including most notably the Internet, has broadened considerably the availability of relevant information and placed such information within the grasp not only of States and international organizations but also of civil society. It has also led to challenges related to the sheer amount and variable quality of information available. But, in parallel, it has produced major improvements in data gathering, processing, search and retrieval capabilities that have facilitated the identification of information relevant to verification.

5. Advances in remote sensing, including by satellite and aerial means, and their growing commercial availability at reasonable cost, have expanded access to information relevant to verification. Improved sampling and analysing techniques

¹ Unless otherwise indicated, in the context of the present report, the term non-compliance is used in a general sense and not as it is used in any specific treaty.

have furthermore increased the capacity of States to gather relevant information for verification purposes.

6. The experience and accumulated expertise of international agencies, standing verification bodies and bilateral and regional arrangements for verification and monitoring have provided a valuable contribution and have enriched and helped to spur the development of new approaches, methods and technologies for verification. An ever-expanding number of personnel is gaining experience in verification, including as on-site inspectors in various fields, thereby giving more and more States a role in the conduct of verification.

7. Verification also has its constraints. Questions have been raised about the efficacy of verification approaches, technologies and methodologies for detecting non-compliance with certain types of obligations in a timely manner. Recent experience has shown that, in respect of some types of activities, including procurement and development of dual-use items and certain types of weapons, efforts to violate obligations may not be detectable or confirmable as illicit. An appropriate balance must be found between the needs of verification, on the one hand, and legitimate national security and commercial proprietary concerns, on the other hand. The capacity of States to implement their obligations can be inadequate. For example, some States have serious problems in monitoring and implementing legal controls on the activities of individuals and non-governmental entities within their territory.

8. Keeping in mind both the need to avoid duplication of work done by the earlier panels (see A/45/372 and Corr.1 and A/50/379) and General Assembly guidelines on report writing, this report is selective, not exhaustive, in its treatment of verification. Within these parameters, the Panel has sought to focus in particular on what has changed in the decade since the last report and what is different in the international community's approach to, and understanding of, verification, in order to discern new trends and requirements. It includes established verification approaches as well as emerging approaches that support verification. To this end, the Panel has examined the purpose of verification; the evolution of the concept of verification since 1995; verification methods, procedures and technologies; and, verification and compliance mechanisms. Examination of the verification "toolbox" has been undertaken with a view to suggesting areas in which additional work could usefully be pursued. In addition, the Panel has looked at the key factors influencing what States want and expect from verification and how these expectations might be addressed. The overall objective was to produce a report with forward-looking recommendations, which States are invited to explore and examine and to take up in their own right.

II. Purpose of verification

9. Verification is a tool to strengthen international security. It involves the collection, collation and analysis of information in order to make a judgement as to whether a party is complying with its obligations. Such obligations may derive from treaties, agreements or arrangements or from decisions of competent multilateral organs such as the Security Council.

10. Most non-proliferation, arms control and disarmament regimes have been conceived to include formal, legally binding bilateral or multilateral verification

arrangements. Such arrangements set out the procedures, methodologies and technologies for the conduct of verification and for addressing concerns related to parties' activities. More recently, some States also have utilized less formal arrangements.

11. States may develop cooperative verification arrangements either informally or through the establishment of bilateral, multilateral (including regional) or international bodies. In addition, or alternatively, they may use their own national means and methods of verification. Cooperative verification mechanisms can be useful to all States, particularly to those with limited national capacity and resources for conducting their own verification and monitoring activities. Although some forms of participation in verification may be costly, States derive significant security and other benefits from treaty membership.

12. There is no single means of verification applicable to all agreements. Parties to each arrangement, treaty or agreement will select from a range of verification tools the means that they deem necessary, effective and acceptable. Factors that affect the design of verification arrangements include the nature of the obligations and activities to be verified; national security concerns; the risks associated with and the potential impact of non-compliance; the compliance history of the parties involved; the degree of trust between the parties; commercial confidentiality; the benefits and costs of the contemplated means of verification; the availability of alternative or additional resources, including national means and methods of verification; the need to avoid misuse or abuse of verification; and the principles of reciprocity and impartiality. Each State may give different weight to these factors.

13. Multilateral, treaty-bound verification is a desirable goal. It can enhance credibility, encourage universality, bring all participating States together in a common endeavour, help to build transparency and confidence and facilitate compliance. It can also facilitate action, where applicable, by implementation bodies, the General Assembly and the Security Council to bring States parties back into compliance. However, there is a concern that such arrangements may not always be appropriate or feasible.

14. The political will of States to implement non-proliferation, arms control and disarmament obligations and commitments, including confidence-building measures, and to participate in the associated verification arrangements, where applicable, is crucial. It is characterized by the willingness of States to share information, allocate resources, use available verification mechanisms and deal with cases of non-compliance. If provided with sufficient flexibility and sturdiness, the verification arrangements will be better able to meet and withstand crises should they arise.

15. Various international organizations play a role in multilateral monitoring and verification. For example, the International Atomic Energy Agency (IAEA) and the Organization for the Prohibition of Chemical Weapons (OPCW) contribute to increasing effective verification, including by promoting training activities, optimizing the utilization of monitoring and verification resources, maintaining extensive and accessible databases in their respective fields and providing technical and other assistance to participating States to comply fully with their obligations. Additionally, while the Comprehensive Nuclear-Test-Ban Treaty is not in force, work is under way in the Preparatory Commission for the Comprehensive Nuclear-

Test-Ban Treaty Organization to build an international monitoring system and develop on-site inspection procedures.

16. The United Nations has been and is involved in several areas of monitoring and verification. These include investigating prohibited activities through the activities of the United Nations Special Commission (UNSCOM) and the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) in Iraq; investigating allegations of chemical and biological weapons use through the Secretary-General's mechanism; monitoring the implementation of arms embargoes and sanctions authorized by the Security Council; and monitoring and assisting States in the implementation of obligations such as those arising from Security Council resolution 1540 (2004).

17. The United Nations also facilitates the collection, collation and dissemination of the reports on the confidence-building measures under the Biological and Toxin Weapons Convention; the annual submissions to the Register of Conventional Arms; the annual submissions to the United Nations System for the Standardized Reporting of Military Expenditures; the annual reports required under article 7 of the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-personnel Mines and on Their Destruction; data and information, including national reports, on the implementation of the Programme of Action to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons; and reports on confidence-building measures in the field of conventional weapons submitted pursuant to General Assembly resolution 59/92. In addition, the United Nations Institute for Disarmament Research provides information concerning obligations relating to non-proliferation and disarmament treaties, agreements, commitments and their verification.

18. Compliance assessments are an integral element of the verification process. Verification seeks to detect non-compliance, deter would-be non-compliers and build confidence among parties to an agreement. It seeks to detect non-compliance early enough to enable States parties to deal with the situation by bringing the violator back into compliance; counter the security threat presented by the violation; and thereby deny the violator the benefits of non-compliance. Verification also seeks to enhance transparency and openness, thereby building confidence. Verification thus plays a direct role in contributing to international and national security by providing assurances on the compliance of States with their obligations and commitments.

19. The ability to detect and assess accurately non-compliance depends on factors such as the nature of the obligations, the precision of the language by which they are expressed, the monitoring means included in the agreements, the compliance history of the parties and analytic capabilities. The integration of information from various sources and the degree of access that inspectors have to areas of concern will also be factors. While international bodies may be mandated to verify compliance, ultimate responsibility for making compliance assessments rests with States parties.

20. States have the opportunity to demonstrate their compliance by undertaking confidence-building and transparency measures and providing extra information in addition to the basic legal, mandatory requirements. Conversely, States need to consider that suspicions might arise from their non-participation or partial, reluctant involvement in verification activities.

21. In order for verification to deter States from non-compliance, there need to be clear and assured consequences for non-compliant behaviour. When violations are discovered, the goal is to bring the transgressor back into compliance, consistent with the provisions of the relevant treaty and international law, including the Charter of the United Nations.

22. Non-compliance may be inadvertent or deliberate. In the case of inadvertent non-compliance, States may not be fully aware of their obligations or may misinterpret them. In such cases, advice, encouragement and cooperation, including capacity-building, can help bring States back into compliance and prevent further non-compliance.

23. In cases of deliberate non-compliance constituting a direct challenge to the security of other parties, stronger measures are likely to be necessary. A range of different measures could be applied, in accordance with national legislation and consistent with international law, such as seeking clarifications and assurances through provisions of the relevant treaty, diplomatic and other national, regional and multilateral efforts, and consideration and appropriate action by the Security Council, including measures under Chapters VI and VII of the Charter. Consistency in reacting to situations of non-compliance is important in ensuring widespread support and deterring future non-compliance.

Recommendations for section II

Recommendation 1

24. **Non-proliferation, arms control and disarmament treaties, agreements and commitments, when and if appropriate to the circumstances, should be defined in a way such that they can be subject to effective verification.**

Recommendation 2

25. **Verification approaches should be designed to enable the parties to an agreement to monitor compliance, and detect and collect evidence of possible non-compliance, before that non-compliance threatens the core security objectives of the agreement. To the extent that these objectives can be achieved, it is therefore preferable that treaties, agreements and commitments be supported by an appropriately elaborated set of verification procedures and means that take full account of the nature of the agreement and the relationship among the potential parties.**

Recommendation 3

26. **If it is determined by States that verification cannot be achieved with confidence in this fashion, States may wish to consider proceeding with the agreement using other appropriate means.**

Recommendation 4

27. **Analysis could be undertaken of the capability of existing and possible new verification methods to detect significant, deliberate non-compliance or a pattern of non-compliance with obligations.**

Recommendation 5

28. Further consideration could be given to responses to withdrawal from treaties where the withdrawing party has misused its technology and technology transfers for peaceful purposes to pursue prohibited weapons-related activities, with specific reference to non-compliance, continuing verification and denying violators the benefits of their violations.

III. Evolution of the concept of verification since 1995

29. The concept of verification has evolved since 1995. The concept discussed by the Panel included broader elements than traditional verification arrangements. The United Nations, including the Security Council, has played an increasing role in activities, including those related to non-State actors, which fall within the ambit of this broader concept of verification.

30. Cooperative threat reduction activities (for example, the 1991 Nunn-Lugar Cooperative Threat Reduction Program and the Global Partnership against the Spread of Weapons and Materials of Mass Destruction) have produced innovative transparency, reporting and verification measures for assessing implementation and compliance. These agreements have been helpful in building international confidence, including by providing publicly available information on their implementation.

31. Transparency measures such as those found in the Vienna Document, the Open Skies Treaty, the Hague Code of Conduct, the Andean Charter for Peace and Security and the Document on Confidence and Security-Building Measures in the Naval Sphere in the Black Sea have been helpful in building confidence and security.

32. Export controls and export licensing practices for dual-use goods and technologies are becoming increasingly important tools. Advances in tracking and tracing shipments and transfers of dual-use items, including the use of authenticated end-use/user and delivery certificates, are helping in the monitoring of compliance with States' obligations to prohibit illicit transfers of controlled goods and to prevent the proliferation of weapons of mass destruction and their means of delivery.

33. Civil society, including industry, the financial sector, the media, academia and non-governmental organizations, is playing an increasing role in raising awareness of non-proliferation, arms control, disarmament and other obligations and commitments, including those relating to sanctions and arms embargoes, as well as confidence-building measures. It is also acting as a resource for informing individual members of society about the implications of such obligations and commitments. It can also provide resources and expertise to States that may need assistance in national implementation.

34. Arms embargoes and sanctions imposed by the Security Council have been used by the international community to curb the illicit inflow, transfer or acquisition of weapons in certain countries or regions, in the interest of international peace, pressing humanitarian considerations or the prevention of human rights violations. The Security Council relies on Member States, regional and international organizations and its own bodies and mechanisms to monitor the implementation of

embargoes and sanctions. Arms embargoes and sanctions work most effectively when all States have the capacity and will to comply with them fully and there is confidence that all States are complying with the obligations they impose. Low-tech monitoring technologies and methodologies are particularly useful in monitoring embargoes and sanctions. In this regard, certain non-governmental organizations and civil society have played an informal role in certain cases in identifying the location of clandestine holdings and illicit transfers of conventional arms.

35. Security Council resolution 1540 (2004) requires all States to implement and enforce the necessary national measures, such as penal and administrative legislation, export controls, and border and customs controls, to prevent the proliferation of nuclear, chemical and biological weapons and their means of delivery. The Security Council, including through its 1540 (2004) Committee, has devised innovative ways to monitor compliance with these obligations, including national reporting. The implementation of resolution 1540 (2004) has revealed a lack of capacity in some States to execute their obligations, even when they are willing to do so. While the 1540 (2004) Committee oversees the implementation of the resolution, there is still a need to assist some States to enable them to be aware of and to meet their obligations.

Recommendations for section III

Recommendation 6

36. Those in a position to do so might consider assisting relevant States and regional groups in developing the legal, institutional and operational capacity to implement their obligations under Security Council embargoes and sanctions. In this regard, the utilization and continued development of effective, low-tech monitoring technologies and methodologies should be fostered, as well as the strengthening of States' tracking of illegal arms flows and enhanced national controls on imports, exports, financial transactions and brokering relating to illicit arms transfers.

Recommendation 7

37. The United Nations could encourage improved coordination among Member States and regional organizations and help affected States to participate actively in monitoring and verifying compliance with arms embargoes and sanctions.

Recommendation 8

38. States Members of the United Nations, in line with Security Council resolution 1540 (2004), should consider the kind of practical assistance they can provide, particularly in the areas of reporting and capacity-building, to help States implement their non-proliferation obligations.

Recommendation 9

39. Private donors, foundations, non-governmental organizations and international organizations could assist States in ensuring that civil society is aware of its obligations.

Recommendation 10

40. Partnerships between or among States, the United Nations, other international organizations and civil society to help build capacity for national implementation of States' obligations, including through research and identification of appropriate legislative models and best practices, might be further encouraged, where appropriate.

IV. Verification methods, procedures and technologies

41. Significant developments in verification methods, procedures and technologies have occurred since 1995, serving to increase confidence in the verification process by enhancing flexibility, accuracy, reliability, effectiveness and range. Important practical lessons have been derived from the verification experience.

42. The range of verification techniques and tools has expanded as a result of verification practice and technological developments. Experience has shown that a holistic and multilayered approach is useful to overcome the limitations inherent in individual tools.

43. The availability of improved technologies and methodologies, together with practical experience, has influenced the refinement of existing verification tools and the development of new ones. Verification procedures, such as data mining and interviewing personnel, have proved useful. Advances in data collection, collation, recording and transmission have increased efficiency and reduced costs. States' declarations can now be prepared in electronic format and submitted securely online. Remote monitoring of sensitive facilities is now common practice. The use of satellite observation, aerial overflights — such as those operated under the Open Skies Treaty — and data capture technologies, such as optical cameras, has evolved and is becoming more refined as well as more commonplace.

44. On-site inspection has been enhanced through improvements in observation, sampling, recording and analysis technologies. These include wide-area sampling, portable agent detectors and high-resolution trace analysis that enable minute traces of illicit substances to be detected and identified. Decisions on follow-up measurements and questions can in some instances be made on the spot, enhancing the timeliness, accuracy and cost-effectiveness of inspections.

45. Challenge or special on-site inspections are a potentially useful tool to inspect undeclared sites and facilities. They can increase the risk of detection and the costs of concealing non-compliant activities, and thus may help to deter non-compliance. Such an instrument is found in different verification regimes. For example, it formed an integral part of the confidence- and security-building measures agreed to in the 1986 Stockholm Document for participating States of what was the then Conference on Security and Cooperation in Europe (now OSCE), followed by the Treaty on Conventional Armed Forces in Europe and the Vienna Document 1992. The Chemical Weapons Convention has provisions for short-notice on-site inspections, anytime and anywhere without the right of refusal. The Comprehensive Nuclear-Test-Ban Treaty, while not in force, contains challenge on-site inspection provisions. IAEA special inspections offer the possibility of inspecting undeclared sites, although it would need the consent of the State concerned for practical implementation. A new development in this area is complementary access under the

additional protocol to the safeguards agreements with IAEA. Several bilateral and regional treaties also include provision for challenge inspections. In some agreements and arrangements, challenge inspections are practised frequently as part of the normal confidence-building atmosphere; in others they are treated as highly sensitive instruments and are hardly, if ever, used.

46. Notwithstanding their potential benefits, the degree to which these procedures can help to detect non-compliance depends on the willingness of States to utilize them and the ability to identify locations of concern in a timely manner, to arrive at them before all indications of violation are eliminated and to have sufficient, unimpeded access at those locations, including for sampling, interviewing and document review as appropriate. As a practical matter, there may well be limitations in all these areas and much will depend on circumstances.

47. Technological advances have improved the breadth, availability and quality of information from open sources. A considerable amount of information pertinent to verification is now publicly available on websites, in published form, from commercial sources, including satellites, and from civil society. Data processing has also aided the development of information management systems. For example, integrated data management systems such as those developed by UNMOVIC and used by OPCW can, inter alia, manage State declarations, maps, satellite imagery, on-site inspection reports and sampling reports and provide Intranet, archival and search facilities.

48. International organizations with verification responsibilities have worked together, notably in multidisciplinary teams of inspectors. Cooperation with States has also proved useful to multilateral verification bodies when the provision of information and data from national means has helped the latter to better pinpoint and refine their investigative work in verifying compliance with Security Council resolutions concerning weapons of mass destruction and their means of delivery. For example, satellite imagery and other data have been provided to relevant bodies, including OPCW, IAEA and, in the case of Iraq, UNSCOM/UNMOVIC, by a number of States, as appropriate.

49. There also may be potential for beneficial synergies between verification technology and non-verification applications. For example, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization is establishing the International Monitoring System, which feeds data into an international data centre for analysis and distribution to member States. Such verification data may also be useful in civil, environmental, disaster management and other scientific applications.

50. In short, one of the most significant changes in verification since the end of the cold war is the growing experience and familiarity of States — and of experts working within States or in international multidisciplinary teams — with verification. For example, bilateral experiences of the United States, the Russian Federation and the Former Soviet Union, the inspections and evaluations conducted bilaterally and multinationally in the Euro-Atlantic region and the experience of the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials have in their respective ways contributed to a considerable pool of verification knowledge, methods and expertise from which to draw.

51. Regarding the illicit transfer of conventional weapons, there are important challenges for States, particularly related to their tracking of illicit cross-border movement of arms, lack of transparency and reporting, the monitoring of financial activities linked to illicit trafficking and brokering in arms, and appropriate domestic legislation and enforcement capacity.

52. Advances in the availability of low-tech tools, such as aerial and cooperative monitoring, methodologies and synergies, give more States an opportunity to play an active and meaningful role, thereby giving them a greater stake in verification as a means of addressing their security.

Recommendations for section IV

Recommendation 11

53. States might usefully examine the lessons learned from past verification experiences, including, the use of inspections, interviews, data mining, multidisciplinary approaches, teams and training.

Recommendation 12

54. States should consider practically how they might go about handling challenge inspections at sensitive sites in order to manage access in a way that builds confidence that the process can demonstrate compliance, while preventing disclosure of confidential information and data not related to the obligation at hand. This could be done for example through training or table-top exercises and mock inspections with or without involvement of international organizations or other States parties.

Recommendation 13

55. There may be scope for further cooperation between and among States and standing verification mechanisms of relevant international organizations to identify potential synergies and collaborative possibilities.

Recommendation 14

56. Changes in the international security environment can have implications for what States need in their verification toolbox. The creation of new or expanded obligations may require different or new methodologies and techniques (such as, for example, environmental sampling, open-source analysis, interviewing personnel and informal monitoring by civil society). States in a position to do so should continue to research new verification methods and technologies to meet today's challenges and obligations.

Recommendation 15

57. States in a position to do so may wish to consider how best to assist other States in identifying, acquiring and using those verification and monitoring techniques, technologies and methodologies, in particular low-tech, that are best suited to their particular security needs. This could be particularly useful in the area of the illicit transfer of conventional weapons.

V. Verification and compliance mechanisms

58. Responsibility to improve verification and compliance mechanisms lies, quite properly, with the States that have undertaken treaty obligations, freely committed themselves to constraints in armaments and to disarmament activities, or have been obligated by Security Council resolutions. States acting collectively in their capacity as members of a particular treaty or regime, and subject to their internal ratification procedures, have the authority to change, improve and deepen verification or introduce new methods, technologies and measures for that regime.

59. One mechanism comes directly under the auspices of the United Nations — that is, the Secretary-General's mechanism, which is an important potential tool for investigating and verifying the possible use of chemical or biological weapons.

60. By its resolution 42/37 C, the General Assembly requested the Secretary-General to establish a mechanism to investigate the alleged use of chemical or biological weapons, and in that context requested him to further develop technical guidelines and procedures for such investigations, and to compile and maintain a list of relevant experts and laboratories. Following the adoption of Security Council resolution 620 (1988), the Assembly, by resolution 45/57 C, endorsed the ensuing proposals to operationalize the mechanism, including those authorizing the Secretary-General to update it periodically. This mechanism has not been updated as a whole since 1989, although there has been some revision of the list of experts and laboratories. It is unclear whether it would now be able to work effectively if the Secretary-General were called upon to investigate allegations of chemical or biological weapons use. There have been no exercises or operational/logistical planning to ensure that the Secretary-General could in fact send an investigative team of highly trained inspectors in a moment of crisis or need.

61. Standing detailed procedures for the investigation of alleged chemical weapons use have been developed by OPCW for States parties to the Chemical Weapons Convention since 1997. The United Nations and OPCW subsequently concluded an agreement whereby the Secretary-General of the United Nations may request OPCW to investigate alleged use by States not parties to the Convention or territories not controlled by States parties (see General Assembly resolution 55/283).

62. States individually and on a regional basis, as well as OPCW and other international organizations, have taken and are taking steps to improve their ability to investigate chemical and biological weapons use. The Panel has considered the value of taking advantage of existing and planned national and regional capabilities and synergies and greater coordination among international organizations with a view to avoiding unnecessary duplication of effort.

63. Ever-increasing obligations have increased reporting requirements. Some States have difficulties in coping with the reporting burden. Simplification of reporting forms and electronic formats have gone some way in reducing the burden. At the same time, increased reporting requirements have provided more information from States that needs to be collated, disseminated, analysed and verified. Much of the information required is available from open sources, such as the Internet and published government reports, but there are constraints on the capacity of the United Nations to gather and process such information.

64. Regional and bilateral arrangements and organizations can play a role in promoting compliance and detecting non-compliance. Such bodies include regional organizations involved in implementing and monitoring compliance with nuclear-weapon-free zone agreements; and bilateral bodies such as those established by the various United States/Russian Federation nuclear arms control agreements, as well as the Brazilian-Argentine Agency for Accounting and Control of Nuclear Materials and the European Atomic Energy Community. They may also be especially useful in investigating suspicious activities within their region, such as outbreaks of infectious disease or attempts to procure materials or components related to weapons of mass destruction. The authority under which such regional bodies or groups of States act may be provided by Security Council resolutions or through regional agreements.

65. Finally, with a few exceptions, multilateral and regional verification and implementation organizations have to date cooperated only sporadically, despite having formal agreements that permit and encourage cooperation. Part of this is due to their different mandates and responsibilities. As improvements continue in monitoring and remote-sensing technologies, data-gathering and processing, environmental techniques and so forth, there is greater scope for one organization's work to be of use to another, even if the specific mandates are different.

Recommendations for section V

Recommendation 16

66. In the context of General Assembly resolutions 42/37 C and 45/57 C, States could consider ways in which they could contribute to making the Secretary-General's mechanism to investigate alleged use of chemical or biological weapons more operational and cost-effective through national measures.

Recommendation 17

67. Consideration should be given to strengthening ties and establishing appropriate standing arrangements with international organizations, including OPCW, States and regional bodies, so as to build upon and make use of their relevant investigative capabilities and make the mechanism more operational and cost-effective.

Recommendation 18

68. States that have not done so should consider providing the names of experts and/or laboratories to facilitate the updating of the relevant lists.

Recommendation 19

69. States could continue to explore the synergies that may exist in the area of techniques and methodologies of monitoring and verification and in addressing situations relating to compliance and non-compliance.

Recommendation 20

70. International organizations mandated to collect information from States in support of monitoring States' compliance with obligations might consider

ways and means of alleviating or mitigating the overlap, as well as of improving the ways in which data are collected and disseminated to States.

Recommendation 21

71. Bilateral and regional arrangements could be encouraged to play a role, where appropriate, in promoting compliance, building confidence and detecting, assessing and responding to non-compliance.

VI. Final recommendation

72. The panel recommends that States Members of the United Nations give active consideration to the recommendations of this report and to how they might, acting singly or in concert with other States, take up any of the recommendations for development. They could also be subject to further consideration under the respective treaties or by the appropriate United Nations body or group.



General Assembly

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Agenda item 123

Human resources management

Implementation of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission

Report of the Secretary-General

Summary

The present report, submitted in response to the request of the General Assembly contained in resolutions 60/238 and 61/244, provides information on the implementation of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission.



I. Introduction

1. The present report is submitted in response to the request made by the General Assembly in its resolutions 60/238 and 61/244 that the Secretary-General provide information on the implementation of the Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials and Experts on Mission.
2. The Regulations Governing the Status, Basic Rights and Duties of Officials other than Secretariat Officials, and Experts on Mission (hereinafter "the Regulations") were adopted by General Assembly resolution 56/280 of 27 March 2002, and promulgated by the Secretary-General in his bulletin ST/SGB/2002/9 of 18 June 2002.
3. The present report will address the two issues that have arisen since the Regulations were promulgated, namely (a) privileges and immunities and (b) applicability of the financial disclosure requirement to officials other than Secretariat officials, and experts on mission.

II. Privileges and immunities

Background

4. The basic documents regulating the scope of the privileges and immunities of officials of the Organization are the Charter of the United Nations (Article 105), the 1946 Convention on the Privileges and Immunities of the United Nations (articles V and VII), headquarters agreements with host States and, where applicable, the 1961 Vienna Convention on Diplomatic Relations. Certain Member States hosting Offices of the United Nations have adopted national laws and regulations which can also be considered as a source of privileges and immunities for officials of the Organization.
5. Article 105, paragraph 1 of the Charter provides that "the Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfilment of its purposes". In order to give effect to Article 105 of the Charter, the General Assembly adopted the Convention on the Privileges and Immunities of the United Nations (hereinafter "the General Convention") on 13 February 1946. Of particular relevance are sections 20 and 21 of the General Convention to which 153 Member States are Parties and are thus bound thereto. The sections read as follows:

Section 20. Privileges and immunities are granted to officials in the interests of the United Nations and not for the personal benefit of the individuals themselves. The Secretary-General shall have the right and the duty to waive the immunity of any officials in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the United Nations. In the case of the Secretary-General, the Security Council shall have the right to waive immunity.

Section 21. The United Nations shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence

of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

6. Officials other than Secretariat officials are persons who, at the direction of the legislative organs, occupy certain positions, or perform specific functions for the Organization on a substantially full-time basis. These officials are not in a separate category under the General Convention, but their names are submitted by the Secretary-General to the host country together with those of Secretariat officials who are staff members. These persons have been consistently referred to by the General Assembly as "officials other than Secretariat officials".

7. The General Assembly, by its resolution 3188 (XXVIII) of 18 December 1973, approved "the granting of the privileges and immunities referred to in articles V and VII of the Convention on the Privileges and Immunities of the United Nations to the members of the Joint Inspection Unit and the Chairman of the Advisory Committee on Administrative and Budgetary Questions".

8. Article VI, sections 22 and 23 of the General Convention provide that experts, other than officials coming within the scope of article V, shall be accorded privileges and immunities necessary to enable them to carry out their missions for the United Nations and specifies a number of those privileges and immunities.

9. Experts on mission may be retained by way of a contract known as a consultant contract, which sets out the terms of their appointment and the tasks that they must discharge. Other individuals may have the status of experts on mission if they are designated by United Nations organs to carry out missions or functions for the United Nations such as rapporteurs of the Commission on Human Rights or members of the International Law Commission.

Privileges and immunities applicable to officials other than Secretariat officials and experts on mission

10. In accordance with article V, sections 20 and 21 of the General Convention, it is the Secretary-General alone who may decide whether privileges and immunities in a particular case apply, and whether they should be waived.

11. In its advisory opinion of 29 April 1999, the International Court of Justice had recognized that "the Secretary-General, as the chief administrative officer of the Organization, has the primary responsibility to safeguard the interests of the Organization; to that end, it is up to him to assess whether its agents acted within the scope of their functions and, where he so concludes, to protect these agents, including experts on mission, by asserting their immunity" (para. 60).

12. Regulation 1 (e) provides as follows: "[t]he privileges and immunities enjoyed by the United Nations by virtue of Article 105 of its Charter are conferred in the interests of the Organization. These privileges and immunities furnish no excuse to those who are covered by them to fail to observe the laws and police regulations of the State in which they are located; nor do they furnish an excuse for non-performance of their private obligations. In any case where an issue arises regarding the application of these privileges and immunities, an official or an expert on mission shall immediately report the matter to the Secretary-General, who alone may decide whether such privileges and immunities exist and whether they shall be waived, in accordance with the relevant instruments. The Secretary-General should

inform and may take into account the views of the legislative bodies that appointed the officials or experts on mission”.

13. On 17 November 2006, the Under-Secretary-General for Legal Affairs, the Legal Counsel, made a statement in the Fifth Committee replying to questions posed by the Bureau of the Fifth Committee pertaining to the waivers of immunity from legal process by the Secretary-General with regard to the two cases noted below. In the course thereof, the Legal Counsel provided a legal analysis of the relationship between the General Convention and the Regulations adopted by the General Assembly (see A/C.5/61/SR.22).

Cases of waiver of immunity of officials other than Secretariat officials and experts on mission

14. In all instances, the Secretary-General follows the normal practice of waiving immunity when he determines, according to the merits of a particular case, that immunity would impede the course of justice and that it could be waived without prejudice to the interests of the United Nations.

15. Since the adoption of General Assembly resolution 3188 (XXVIII), two requests to waive the immunity of United Nations officials other than Secretariat officials have been received and waivers have been granted.

16. On 1 September 2005, the Secretary-General waived the immunity from legal process of the then serving Chairman of the Advisory Committee on Administrative and Budgetary Questions at the request of the United States Mission to the United Nations. The reasons for the waiver were serious United States federal criminal charges relating to money-laundering in violation of United States laws. On 9 September 2005, the Secretary-General addressed a letter to the President of the General Assembly informing him of the United States request, the applicable legal provisions and the reasons for the waiver and indicating that, in accordance with the Organization's existing procedures in cases of arrest or detention of United Nations officials, the assistance of the competent United States authorities had been requested with a view to facilitating a visit by a United Nations official.

17. On 7 November 2005, the Secretary-General waived the immunity from legal process of a Joint Inspection Unit Inspector at the request of the competent law enforcement authorities. The reasons for the waiver were grave allegations of a criminal nature which were being investigated by the Swiss law enforcement authorities. In view of the seriousness and sensitivity of the allegations, the request has been conveyed to the United Nations on a strictly confidential basis. On 3 March 2006, the Legal Counsel addressed a confidential communication to the President of the Joint Inspection Unit requesting the latter to transmit to the Inspector concerned a confidential letter explaining, on behalf of the Secretary-General, the reasons why the decision to waive had not been brought to the attention of the General Assembly.

18. As paragraph 3 of the Regulations indicates, a wide variety of functions are performed for the United Nations by persons retained as experts on mission. The Secretary-General has routinely waived the immunity of experts on mission to permit them to testify in court or other legal proceedings as witnesses. The immunity of experts on mission has also been waived, or deemed not to apply, for other reasons such as to permit civil or criminal proceedings. However, there have

been no cases to date where the immunity of a special rapporteur has been waived to permit civil or criminal proceedings although on one occasion, it was determined that immunity did not apply.

III. Applicability of the financial disclosure requirement to officials other than Secretariat officials and experts on mission

19. Regulation 2 (i) provides as follows: "Officials and experts on mission shall file financial disclosure statements if requested to do so by the Secretary-General. The Secretary-General shall prescribe the format and information to be provided in such statements and shall establish procedures for filing them. The financial disclosure statements will remain confidential and will be used, as prescribed by the Secretary-General, only in making determinations pursuant to regulation 2 (h). It will be for the Secretary-General, in due consultation with the appointing authority in the case of officials not appointed by the Secretary-General, to judge whether a particular fact has given rise to a conflict-of-interest situation".

20. Responsibility for the implementation of the financial disclosure programmes rests with the Ethics Office, which will be submitting a separate report on its activities to the General Assembly. The Ethics Office is in the process of conducting a review whether financial disclosure statements should be required of officials other than Secretariat officials and experts on mission with fiduciary role. Regulation 2 (i) gives the Secretary-General the authority to introduce such a requirement, to determine the procedures applicable and, in due consultation with the appointing authority in the case of officials not appointed by the Secretary-General, to judge whether their functions and interface give rise to potential conflict of interest. Given the policy-setting or oversight roles, and the independence of the bodies and status of the members involved, careful consideration must be given to the question as to the need for an appropriate financial disclosure system for their members.

IV. Conclusion

21. The Secretary-General invites the General Assembly to take note of the present report.

**General Assembly
Security Council**

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Agenda items 17 and 27

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Sixty-second year

The situation in the occupied territories of Azerbaijan

**Protracted conflicts in the GUAM area and
their implications for international peace,
security and development**

**Letter dated 17 August 2007 from the Chargé d'affaires a.i. of the
Permanent Mission of Azerbaijan to the United Nations addressed
to the Secretary-General**

In addition to the previous letters from the Permanent Representative of Azerbaijan to the United Nations addressed to the Secretary-General of 5 July (A/61/991-S/2007/410), 9 July (A/61/1000-S/2007/422) and 23 July 2007 (A/61/1006-S/2007/452), I have the honour to draw your attention to the reaction of the international community to the so-called "presidential elections" held on 19 July 2007 in the occupied Nagorno-Karabakh region of the Republic of Azerbaijan (see annex).

The following international organizations, the United Nations, the Organization for Security and Cooperation in Europe, the Council of Europe, the North Atlantic Treaty Organization, the Organization of the Islamic Conference, the European Union, the European Parliament and the Organization for Democracy and Economic Development-GUAM, as well as Australia, Canada, the People's Republic of China, France, Hungary, the Islamic Republic of Iran, Israel, Japan, Latvia, Morocco, Norway, Romania, Turkey, Ukraine and the United States of America condemned the above-mentioned matter, underlining that the legitimacy of such kinds of elections and their results, which disregard the principles and norms of international law, in particular territorial integrity and the inviolability of the frontiers of the Republic of Azerbaijan, cannot be recognized and do not have any legal effect.

At the same time so-called "municipal elections" in the Nagorno-Karabakh region of the Republic of Azerbaijan, which are going to be held in October 2007 are of the same type, "results" that will have no legal validity.

It is the strong belief of my Government that these "elections" are of a provocative nature and cannot be considered legal, nor will they contribute to the



international mediation efforts aimed at the peaceful settlement of the conflict on the basis of the norms and principles of international law, including Security Council resolutions 822 (1993), 853 (1993), 874 (1993) and 884 (1993). Any future elections can only be conducted under the jurisdiction of the Republic of Azerbaijan with the participation of both the Armenian and Azerbaijani communities of the Nagorno-Karabakh region of the Republic of Azerbaijan.

I should be grateful if the present letter and its annex were to be distributed as a document of the sixty-first session of the General Assembly, under agenda items 17 and 27, and of the Security Council.

(Signed) Ilgar **Mammadov**
Chargé d'affaires a.i.

**Annex to the letter dated 17 August 2007 from the Chargé
d'affaires a.i. of the Permanent Mission of Azerbaijan to the
United Nations addressed to the Secretary-General**

Enclosure I

Ministry of Foreign Affairs of Romania

Press release

The Ministry of Foreign Affairs took note of the fact that on 19th of July, 2007, "presidential elections" took place in Nagorno-Karabakh. Romania does not recognize the independence of Nagorno-Karabakh, neither the legitimacy of this "poll", that should not have any consequences on the peaceful settlement of the Nagorno-Karabakh conflict.

It should be granted, also, the rights of refugees and Internally Displaced Persons, to return in full safety and dignity to their own houses, in order to take part totally to the voting process.

Ministry of Foreign Affairs reiterates the strong support for Minsk Group and for its co-chairs, as well as for their efforts, aimed to the settlement of the Nagorno-Karabakh conflict, and encourages the conflicting sides to intensify the efforts for identifying a negotiated solution of the conflict.

Enclosure II

Republic of Turkey Ministry of Foreign Affairs

Press statement regarding the "presidential elections" in Nagorno-Karabakh*

16 July 2007

We learned that the so-called "Presidential Election" in the Armenian occupied Nagorno-Karabakh region of Azerbaijan is to be held on 19 July 2007, subsequent to the "Constitutional Referendum" held in the same region in a similar vein on 10 December 2006, in contravention of international law and disregarding the will of the international community.

This election is viewed as part of the efforts to unilaterally legitimize the unlawful situation in Nagorno-Karabakh, and is an explicit violation of the principles of international law, United Nations Security Council resolutions and the principles of the Organization for Security and Cooperation in Europe (OSCE).

The Nagorno-Karabakh conflict constitutes the most important impediment to the establishment of peace, stability and cooperation in the South Caucasus and prevents the creation of an environment conducive to good-neighbourliness and cooperation among the countries in the region. At a time when negotiations are being pursued within the OSCE Minsk Process to reach a peaceful settlement of the Nagorno-Karabakh conflict and the Azerbaijani-Armenian dispute, organizing a "Presidential Election" in the occupied Nagorno-Karabakh region obviously constitutes an initiative that challenges the efforts geared towards a peaceful resolution.

Within these considerations, Turkey denounces this renewed effort of Armenia to violate Azerbaijan's political unity, sovereignty and territorial integrity; and will not recognize the outcome of such illegitimate "Presidential Elections" that will have no binding effect whatsoever under international law.

* Unofficial translation.

Enclosure III

Embassy of Japan

The Embassy of Japan presents its compliments to the Ministry of Foreign Affairs of the Republic of Azerbaijan and has the honour to reaffirm the consistent position of the Government of Japan on the Nagorno-Karabakh conflict — it is important to settle the conflict in a peaceful way, based on a principle of the territorial integrity of the Republic of Azerbaijan within the internationally recognized borders.

Therefore, Japan shares the same concern expressed by the Organization for Security and Cooperation in Europe regarding the recent “presidential elections in the Nagorno-Karabakh”.

The Embassy of Japan avails itself of this opportunity to renew to the Ministry of Foreign Affairs the assurances of its highest consideration.

Baky, 24 July 2007

Ministry of Foreign Affairs
Baky

Enclosure IV

Ministry of Foreign Affairs of the Republic of Latvia

The Ministry of Foreign Affairs does not recognize the "presidential elections" held in Nagorno-Karabakh

20 July 2007

The Ministry of Foreign Affairs does not recognize the "presidential elections" held on 19 July 2007 in Nagorno-Karabakh nor their outcome.

The Ministry reiterates its support for the activities of the Organization for Security and Cooperation in Europe (OSCE) Minsk Group and its efforts towards a settlement of the Nagorno-Karabakh conflict. The Ministry of Foreign Affairs considers that the conducting of the "presidential elections", thus pre-empting the outcome of the ongoing negotiations, did not contribute to peaceful conflict resolution.

Enclosure V

[Original: French]

**Kingdom of Morocco
Ministry of Foreign Affairs and Cooperation**

20 July 2007

The Ministry of Foreign Affairs and Cooperation presents its compliments to the Embassy of the Republic of Azerbaijan in Rabat, and has the honour to acknowledge receipt of its note dated 17 July and the statement attached thereto.

The Ministry has taken note of this statement and, reiterating its commitment to the territorial integrity of States as stipulated in Article 2, paragraph 4, of the Charter of the United Nations, calls on the parties involved in the conflict in Nagorno-Karabakh to return to the negotiating table in order to find a peaceful solution to this conflict in a spirit of good-neighbourliness and mutual respect, in accordance with the relevant Security Council resolutions, including resolution 853 (1993) of 29 July 1993 and resolution 884 (1993) of 12 November 1993.

These negotiations could prevent any unilateral actions and would allow the States in the region to safeguard their territorial integrity and to live in peace and security, in the interest of and for the good of the populations concerned.

Embassy of the Republic of Azerbaijan
Rabat

Enclosure VI

Organization for Security and Cooperation in Europe

Press release

23 July 2007

Elections in Nagorno-Karabakh should not have any impact on the peaceful settlement of the conflict, OSCE Chairman-in-Office says

MADRID 20 July 2007 — Efforts to resolve the conflict in Nagorno-Karabakh should not be hindered by the recent so-called “presidential elections” in the area, OSCE Chairman-in-Office, Spanish Foreign Minister Miguel Angel Moratinos, said today.

“The OSCE does not recognize the independence of Nagorno-Karabakh and therefore, these elections should not have any impact or any significance on the solution of the conflict”, Minister Moratinos said.

The Chairman-in-Office reiterated his support to the efforts of Co-Chairmen of the Minsk Group to facilitate a peaceful settlement in the Nagorno-Karabakh conflict.

Enclosure VII

Remarks of the spokesman of the Ministry of Foreign Affairs of China, Liu Jianchao, on the election in the Nagorno-Karabakh region

23 July 2007

Question: The Nagorno-Karabakh region held "presidential election" on 19 July. What is your comment?

Answer: The Chinese Government respects the independence, sovereignty and territorial integrity of the Republic of Azerbaijan and supports the resolutions of the United Nations Security Council on the Nagorno-Karabakh region. China hopes that the relevant parties can find a proper solution in line with universally recognized international law at an early date. China is ready to continue making constructive efforts with the international community to this end.

Enclosure VIII

[Original: French]

Statement by the spokesperson for the French Ministry of Foreign and European Affairs

Paris, 19 July 2007

Nagorno-Karabakh

In connection with the so-called "presidential elections" held on 19 July by the authorities of the self-proclaimed Republic of Nagorno-Karabakh, France reiterates that, like all members of the international community, it does not recognize Nagorno-Karabakh as an independent state. The outcome of such a vote, even if it allows the community with de facto control over Nagorno-Karabakh to organize itself, should not be recognized as prejudging the future legal status of the region.

The final status of Nagorno-Karabakh may be determined only as a result of political negotiations between all parties to the conflict and involving all communities, within the framework of the Organization for Security and Cooperation in Europe (OSCE) Minsk Group, co-chaired by France, the United States of America and the Russian Federation, which has proposed the basic principles for a peaceful and equitable settlement of the conflict.

Any unilateral action aimed at predetermining the future status of Nagorno-Karabakh, or any threat of use of force to obtain this, will merely serve to place additional obstacles in the path of the ongoing negotiations.

Enclosure IX

Ministry of Foreign Affairs of Hungary

Note verbale

The Ministry for Foreign Affairs of the Republic of Hungary presents its compliments to the Embassy of the Republic of Azerbaijan and, with reference to the esteemed Embassy's Note 1141/07 dated 4 July 2007 has the honour to confirm Hungary's principal position in connection with unilateral acts of one of the players of a conflict.

According to Hungary's firm position, unilateral acts like the "presidential election" in Nagorno-Karabakh undermine the confidence desperately needed between the conflicting sides for the peaceful resolution of the conflict. These acts, which disregard the territorial integrity and the wish of a considerable part of the population inhabiting the territory in question, cannot be recognized as legal. Therefore Hungary, as in the previous cases, will recognize neither the "election" itself, nor its results.

Budapest, 11 July 2007

Enclosure X

[Original: Russian]

Excerpts from the "Day.Az" news forum (www.day.az)

Norwegian Ambassador says "presidential elections" in Nagorno-Karabakh not recognized by Norway

19 July 2007

Mr. Jon Ramberg, Norwegian Ambassador to Azerbaijan, has said that the Kingdom of Norway does not recognize the outcome of the "presidential elections" in Nagorno-Karabakh, adding that his country does not consider those "elections" to be legal.

The Parliamentary Assembly of the Council of Europe (PACE), the Georgia, Ukraine, Azerbaijan, Moldova Group (GUAM), the European Commission Special Representative to Azerbaijan, the United States of America, Turkey and other countries had declared earlier that they did not recognize the outcome of the "presidential elections" held by Armenian separatists on occupied Azerbaijani territory.

"Presidential elections" in Nagorno-Karabakh not recognized by Iran

21 July 2007

The Islamic Republic of Iran does not recognize the separatist elections held in Nagorno-Karabakh on 19 July, according to Mr. Medzhid Feizullakhi, Press Attaché of the Embassy of Iran in Azerbaijan.

Mr. Feizullakhi announced that the position of the Islamic Republic of Iran was clear: it recognized the territorial integrity of the Republic of Azerbaijan.

"We call upon all countries of the world to do likewise", the Iranian diplomat added.

Recalling that the head of the Iranian foreign policy department, at the time of the previous separatist elections in Nagorno-Karabakh, had referred to the illegality of such steps being taken by the leadership of the separatist regime in the Nagorno-Karabakh region of the Republic of Azerbaijan, he called on the international community to support Azerbaijan with respect to that issue.

Elections in Nagorno-Karabakh also not recognized by Australia, Canada, Japan and Israel

21 July 2007

Our "day.az" correspondent has been informed by officials at the Australian Embassy in Ankara that Canberra does not officially recognize the "presidential elections" held in Nagorno-Karabakh and that it supports the territorial integrity of Azerbaijan. The Embassies of Canada and Turkey have also expressed the same position.

Meanwhile, the Japanese and Israeli Embassies in Baku have also condemned the holding of the so-called "presidential elections" in Nagorno-Karabakh.

We should note that this is the first time in the long years of the Nagorno-Karabakh conflict that Baku has officially received such support from the international community. These elections had already been condemned by the United States of America, the European Union, the North Atlantic Treaty Organization (NATO), OSCE, GUAM and other international organizations.

Elections in Nagorno-Karabakh also not recognized by NATO

20 July 2007

NATO spokesman Mr. James Appathurai has delivered a statement in Brussels declaring that NATO does not recognize the outcome of the presidential elections held yesterday in Nagorno-Karabakh, "Svoboda" radio station reports.

The NATO spokesman said that his organization was aware that so-called presidential elections had been held on 19 July and that, like other international organizations and institutions, NATO did not recognize the outcome of the presidential elections in Nagorno-Karabakh, or any elections held there.

"Presidential elections" held in Nagorno-Karabakh not recognized by United Nations

24 July 2007

The United Nations does not recognize the so-called "presidential elections" held in Nagorno-Karabakh, according to Mr. Bruno Puez, United Nations Resident Coordinator in Azerbaijan.

Mr. Puez stated that the position of the United Nations with regard to Nagorno-Karabakh remained unchanged: the United Nations did not recognize the body referred to as the Government of the Nagorno-Karabakh Republic and it respected the territorial integrity of Azerbaijan. He also said that the Government of Azerbaijan had submitted a communiqué on the "elections" to the United Nations General Assembly for discussion.

"Presidential elections" held in Nagorno-Karabakh not recognized by Ukraine

20 July 2007

Mr. Stepan Volkovetsky, Ambassador Extraordinary and Plenipotentiary of Ukraine in Azerbaijan, has said that his country does not recognize the separatist elections held in Nagorno-Karabakh on 19 July, ANS television channel reports.

The Ukrainian diplomat said that the Ukrainian Government and people recognized the territorial integrity of the Republic of Azerbaijan and emphasized that nothing would change that position.

**United States Department of State has declared that it does not recognize the
“presidential elections” held in Nagorno-Karabakh: (updated)**

20 July 2007

The Department of State has issued a statement on the illegal “presidential elections” held in Nagorno-Karabakh.

13:00 hrs

Joanne Moore, a spokeswoman for the Department of State, said that the United States recognized the territorial integrity of Azerbaijan and would leave the question of the future status of Nagorno-Karabakh to be resolved by the parties to the conflict.

Ms. Moore stated that neither the United States nor any other country of the world recognized Nagorno-Karabakh as an independent state. Furthermore, Washington did not officially recognize the “presidential elections” held by the separatist regime on 19 July and it did not believe that the holding of those “elections” would have any impact on successful negotiations for a peaceful settlement of the conflict.

Ms. Moore expressed the hope that the Presidents of Azerbaijan and Armenia would soon reach an agreement which, in turn, would open the way for a draft comprehensive peace agreement to be drawn up.

11:24 hrs

Mr. Chase Beamer, Press Officer in the State Department’s Bureau of European and Eurasian Affairs, expressed the hope that the holding of the “elections” would not have any impact on negotiations for a peaceful settlement of the conflict.

Mr. Beamer said that the United States did not recognize Nagorno-Karabakh or the holding of “elections” there. The United States respected Azerbaijan’s territorial integrity and, along with other co-chairs of the OSCE Minsk Group, would make efforts to search for a peaceful solution to the conflict, in cooperation with the Government of Azerbaijan.

He hoped that the Presidents of Armenia and Azerbaijan would reach an agreement on basic principles as soon as possible, which would pave the way for the establishment of a comprehensive peace agreement.



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Agenda item 27

**Protracted conflicts in the GUAM area and their implications
for international peace, security and development**

**Letter dated 10 August 2007 from the Chargé d'affaires a.i. of the
Permanent Mission of Georgia to the United Nations addressed to
the Secretary-General**

I have the honour to transmit herewith the report of the Organization for Security and Cooperation in Europe mission to Georgia regarding the bombing of the territory of Georgia on 6 August 2007 (see annex).

I should be grateful if the present letter and its annex were circulated as a document of the sixty-first session of the General Assembly, under agenda item 27.

(Signed) Irakli Chikovani
Chargé d'affaires a.i.



**Annex to the letter dated 10 August 2007 from the Chargé
d'affaires a.i. of the Permanent Mission of Georgia to the
United Nations addressed to the Secretary-General**

**Organization for Security and Cooperation in Europe
Mission to Georgia: spot report**

Topic:	Tsitelubani missile incident
Date:	8 August 2007

Summary A guided missile impacted in the area of the Georgian administered village of Tsitelubani in the south eastern part of the zone of conflict without causing casualties or major damage. A joint JPKF/OSCE monitoring team was deployed in the early morning of 7 August to examine the site. The Georgian authorities accused the Russian Federation of violation of the Georgian-Russian state border, intrusion into Georgian airspace and the bombing of Georgian territory by Russian military aircraft. The Russian authorities in turn denied any involvement. **End of Summary**

Narrative

At around 04:00 in the morning of 7 August, the Mission was informed by the Georgian authorities that a missile impact site was found near the Georgian administered village of Tsitelubani, in the south eastern part of the zone of conflict close to the main east west highway (M27). According to the Georgian authorities, the impact was linked to the alleged violation of Georgian airspace by Russian SU-type aircraft which crossed into Georgian airspace and dropped the missile before returning into Russian airspace again.

It was agreed that a joint JPKF/OSCE monitoring team (JMT) be deployed to the site in early morning. The Mission Chief Monitoring Officer arrived at the spot from Tbilisi at approximately 07:00, and the JMT at around 08:30. The Georgian Interior Minister, the Head of the Georgian Air Force, the Chief of Shida Kartli Police and many other officials as well as some press officers were already present at the site.

The JMT examined the site and took photographs of the missile parts. The missile was identified as a guided missile approximately 3M in length and 40CM in diameter. It was assessed that the warhead had not detonated on impact.

The JMT was shown by Georgian officials a radar print-out that indicated a track entering the area from the north east and then exiting the same way. From the print out the aircraft was assumed to be a single aircraft but there was also an opinion held by some Georgian representatives on the ground that two aircraft might have been involved. The radar print out showed that aircraft entered and exited Georgian airspace in the area close to the town of Stepantsminda (formerly Kazbegi) at 14:31GMT and 14:41GMT respectively (local time is GMT+4), flying at an altitude of approximately 3700M.

The JMT could not definitely identify the missile type at this stage, and neither the type or number of aircraft.

The JMT was then asked to exit the cordoned area as the Georgian engineers wanted to recover more of the missile. The JPKF Commander who was at the site gave a short interview to the press. At approximately 12:35 the Georgian engineers invited the JMT to examine the recovered central section of the missile and more photographs were taken.

In relation to this incident, at the JPKF morning briefing of 7 August, information was passed by the Chief of Staff of the Russian battalion of the JPKF, who chaired the meeting, that two nearby JPKF Observation Posts (OP) manned by personnel of the North Ossetian battalion (at Didi Gromi and Tsinagari) reported over flights. The Didi Gromi OP 12KM north north west of Tselubani reported an aircraft flying from south west to north east and reported seeing a missile launched towards the north. It was also stated that the approximate altitude of the aircraft was 3000M. The Tsinagari OP 4KM north north east of Tselubani reported hearing a missile impact to the north of their OP but nothing else.

At 13:00, the JMT was sent to check these OPs and left the impact site. At Tsinagari OP, the OP commander and other personnel stated that on 6 August at 18:40 – 18:45 local time they observed one aircraft flying from north east to south west at about 3KM altitude. Before the aircraft reached the OP, it reportedly launched a rocket. It then turned and flew back to north east. The same information was given at Didi Gromi OP. The only difference was that the JPKF personnel there reportedly heard and saw the launch of a rocket right above their OP.

The JMT also went to the Ossetian administered village of Kvemo-Zakhoi 4KM northeast of Didi Gromi. Villagers there confirmed the details of the over flight as reported by the two JPKF OPs and also confirmed the rocket launch to the south of the village.

In the early morning of 8 August, the JPKF Commander decided to send another JMT to the area around the impact site to gather more eyewitness accounts related to the incident.

Other developments

The same day on 7 August, the Ambassador of the Russian Federation to Georgia was summoned to the Ministry of Foreign Affairs, where the Georgian side according to a statement posted on the Ministry's website "expressed a firm protest over the violation of the Georgian-Russian state border, intrusion into Georgian airspace and the bombing of the Georgian territory by Russian military aircraft on 6 August 2007 and assessed this act as undisguised aggression and gross violation of sovereignty of the country". The statement continued that at the meeting the Georgian side categorically demanded clear and immediate explanations from the Russian side.

Representatives of the Russian authorities the same day ruled out any involvement in this incident and stated, among other things, that no aircraft from the Russian Air Force made any flights in the area at the time in question, and that no trespassing over the border into Georgia took place. The Russian Ministry of Foreign Affairs expressed extreme concern about the incident and called for a thorough and speedy investigation.

Later in the day, the Mission attended a briefing by the Ministry of Foreign Affairs on this incident for the diplomatic corps. The Acting Head of Mission went together with other representatives of the diplomatic corps to the impact site at Tselubani, where an additional briefing in the presence of

President Saakashvili took place. The Georgian President called on the international community to respond adequately to this incident.

The OSCE Chairman-in-Office Miguel Angel Moratinos expressed his deepest concern over the incident in a statement issued on 7 August.

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Security Council**

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Agenda items 13 and 66

Security Council
Sixty-second year

The situation in the Middle East

Right of peoples to self-determination

**Letter dated 27 August 2007 from the Permanent Representative
of the Syrian Arab Republic to the United Nations addressed
to the Secretary-General**

Further to my note dated 3 July 2007 regarding the inhumane prison conditions being suffered by the Syrian prisoner Bishr al-Maqat and his fellow prisoners in Israeli prisons, I am writing to you concerning the note from the Permanent Representative of Israel to the United Nations dated 25 July 2007 (A/61/1014-S/2007/463).

Israel's claims concerning the state of health of the prisoner Bishr al-Maqat are, as usual, false and without any basis in fact. Israel did not do anything for 19 days following the issuance of this delegation's note of 3 July 2007 (A/61/963-S/2007/406), and permitted a doctor from the International Committee of the Red Cross (ICRC) to visit him only on 22 July 2007, which is why the Israeli representative did not mention any precise dates or previous visits by an ICRC doctor. This has been confirmed by the information we have obtained from the ICRC representative in Damascus to the effect that a Red Cross doctor visited the Syrian prisoner on 22 July 2007 after learning of his state of health from his family, who requested a Red Cross representative to arrange a visit for them to check on their son's health condition. In other words, doctors' visits were not permitted at all, or occurred rarely and at long intervals. The health of prisoner Maqat (who has been imprisoned for 22 years) has been poor for a long time. We communicated our concerns about his state of health months ago to the Secretary-General and his personal envoy to the Middle East, Mr. Michael Williams. The Representative of Israel should ask his Government to provide him with accurate information, not false information intended to distort the facts and mislead the international community. He should take care to be accurate and truthful and give precise dates when addressing a letter to the Secretary-General that purports to deny the charges in our letter. Otherwise, his letter would seem to be intended merely to deceive the international community.



My country's delegation calls on you, and through you on the United Nations and its relevant organs, to apply pressure on Israel to allow representatives of the Red Cross to visit prisoner Maqat accompanied by doctors qualified to provide the necessary treatment immediately and perform a surgical procedure on him under the supervision of the ICRC. The catheterization he has already undergone targeted two arteries, but there is still a third blocked artery that is not functioning. This has been confirmed by medical reports as well as by the prisoner's family.

My country's delegation asks for visits by Red Cross representatives to follow up on the prisoner's state of health to be made periodically and regularly, and not just when the subject is raised by us in the media or at the United Nations. This would be in accordance with the 1949 Geneva Conventions and treaties on prisoners of war and civilian persons living under occupation. We recall that it was just such inhumane prison conditions and failure by the occupation authorities to provide timely medical treatment to Syrian prisoners that led to the death of the Syrian prisoner Hayil Abu Zayd in 2005.

In view of the foregoing, the Government of the Syrian Arab Republic stands ready to provide the necessary treatment to prisoner Bishr al-Maqat at its own expense in any other country to which he might be transferred.

My country's delegation wishes the present letter to be circulated as a document of the General Assembly under agenda items 13 and 66, and of the Security Council.

(Signed) **Bashar Ja`afari**
Ambassador
Permanent Representative



**General Assembly
Security Council**

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**General Assembly
Sixty-first session
Agenda item 19
Question of Cyprus**

**Security Council
Sixty-second year**

**Identical letters dated 28 August 2007 from the Permanent
Representative of Turkey to the United Nations addressed to the
Secretary-General and the President of the Security Council**

I have the honour to transmit herewith a letter dated 27 August 2007, addressed to you by Murat Soysal, Chargé d'affaires a.i. of the Representation of the Turkish Republic of Northern Cyprus (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the General Assembly, under agenda item 19, and of the Security Council.

(Signed) Baki İlkin
Ambassador
Permanent Representative



**Annex to the identical letters dated 28 August 2007 from the
Permanent Representative of Turkey to the United Nations
addressed to the Secretary-General and the President of the
Security Council**

Upon instructions from my Government, I have the honour to refer to the letter dated 9 August 2007 addressed to you by the Greek Cypriot Chargé d'affaires a.i. and circulated as a document of the General Assembly and of the Security Council (see A/61/1025-S/2007/483), which yet again contains allegations of violations of the "airspace of the Republic of Cyprus" and of the "flight information region of Nicosia", and to bring to your kind attention the following.

In response to such false and pretentious allegations, I wish, once again, to reiterate that flights within the sovereign airspace of the Turkish Republic of Northern Cyprus take place with the full knowledge and consent of the appropriate authorities of the State, over which the Greek Cypriot administration in South Cyprus has no jurisdiction or right of say whatsoever. Furthermore, it should be emphasized that allegations of so-called violations of the flight information region or violations of air traffic regulations are invalid, as the civil aviation authority of the Turkish Republic of Northern Cyprus is the only competent authority to provide air traffic and aeronautical information services.

As stated in our previous letters, such allegations are based on the false and illegitimate claim that the sovereignty of the Greek Cypriot administration extends over the whole island, including the territory of the Turkish Republic of Northern Cyprus. This claim by the Greek Cypriot side is divorced from the existing realities in Cyprus, namely, the existence of two independent States, each exercising sovereignty and jurisdiction within and above its respective territory on the island.

Attempts by the Greek Cypriot representatives, through often-repeated false claims, to confer legitimacy upon an illegal administration will be futile as long as the Turkish Cypriot people refuse to bow to its writs. What would indeed be conducive to a better climate on the island would be for the Greek Cypriot side to stop arrogating to itself the rights and responsibilities it does not legally have, and to cease all hostilities towards the Turkish Cypriot people.

Furthermore, the Greek Cypriot administration's attempts to delimit maritime jurisdiction areas as well as to explore oil and natural gas deposits in the Eastern Mediterranean violate not only the legitimate rights and interests of the Turkish Cypriot people but also those of all of the countries concerned in the Eastern Mediterranean. Instead of pursuing policies and actions that generate tension and destabilization in the area and that attempt to calumniate Turkey, the Greek Cypriot administration would do better to concentrate on finding a solution to the Cyprus problem under your mission of good offices.

(Signed) Murat Soysal
Chargé d'affaires a.i.
Turkish Republic of Northern Cyprus